

EXHIBIT A

“Part 3”

1 HEARING OFFICER FRONCZAK: Government Exhibit
2 10 is accepted into the record.

3 **(Government's Exhibit 10 received in evidence.)**

4 MR. BOYER: Okay. I'm sorry.

5 BY MR. BOYER:

6 Q. Ms. Valls, can you kind of help us out here?
7 So is this first letter here, do you recognize that?

8 A. Yes.

9 Q. What is this letter?

10 A. This is a letter that we send as a follow-up
11 to a warning conference. It basically memorializes
12 that we had a warning conference and what was discussed
13 at that warning conference.

14 Q. All right. And this indicates that the
15 warning conference was held on July 10, 2012, at this
16 location here?

17 A. That is correct.

18 Q. All right. Did you participate in that --

19 A. Yes, I did.

20 Q. -- warning conference?

21 A. Yes.

22 Q. Who else was there? Was Mr. Frazier there?

23 A. Mr. Frazier was there, and my supervisor was
24 there. I don't recall anybody else being there.

25 Q. Okay. And what was -- do you remember what

1 was discussed during that warning conference?

2 A. We would have discussed the report of
3 violations that we gave him, any corrective actions
4 that he's taken at that point in time, and how he's
5 going to move forward.

6 Q. Okay. Now, I notice that page 3 of this
7 exhibit, right, the letter's dated July 10th. This
8 appears to be a warning letter.

9 A. Correct.

10 Q. Was that -- so a warning letter was issued in
11 addition to the warning conference?

12 A. That's correct, yes.

13 Q. Okay. And finally the third letter there,
14 that appears to be informing the notification of the
15 warning conference; is that correct?

16 A. Yes.

17 Q. That would have been sent to Mr. Frazier?

18 A. Yes, that's correct.

19 Q. All right. Understanding then that this one
20 went to a warning conference, was there any history or
21 compliance problems prior to this warning conference?

22 A. Yes.

23 Q. Okay. Can you speak to that?

24 A. Going back to the original letters that we're
25 talking about, in Exhibit 1 --

1 Q. Government Exhibit 1.

2 A. -- it does have all of the compliance history
3 in here. So we did have an inspection in 2010, and he
4 was cited for various violations dealing with 4473s and
5 the A&D book. That was 2010. In 2011, it looks like
6 we also did an inspection in 2011. He was also cited
7 for violations of the A&D and 4473.

8 Q. And that actually is the one here --

9 A. Yes.

10 Q. -- the warning conference that came following
11 that 2011 compliance inspection; is that correct? Or,
12 no, 2012.

13 A. 2012.

14 Q. Yeah.

15 A. So, yeah. This would be before we had the
16 warning conference.

17 Q. Okay.

18 A. 2012 was the warning conference. Generally,
19 we do a warning letter first, and then if they have
20 repeats and violations, more instances, then we go to a
21 warning conference.

22 Q. I see. And so just to clarify, there was
23 this 2010 compliance inspection?

24 A. It looks to me there was a 2010 and a 2011
25 compliance inspection, and then we went back again in

1 2012.

2 Q. Okay. And as a result of the 2010 compliance
3 inspection, did ATF take any action?

4 A. It looks like he received a warning letter
5 per the compliance history.

6 Q. Is that one of the reasons why a warning
7 conference was held following the 2012 inspection?

8 A. That would be correct. If he had repeat
9 violations, if he had higher instances of violations,
10 we would have proceeded to a warning conference, yes.

11 Q. Within the warning letter, is part of the
12 intention to put the federal firearms licensee on
13 notice that additional violations could potentially
14 lead to revocation of the license?

15 A. Yes, that's correct.

16 Q. Would that have also been the similar intent
17 and purpose of the warning conference?

18 A. Yes, absolutely.

19 MR. BOYER: And I'm going to mark this again
20 Government Exhibit 11. This is a two-page document,
21 and once again, this is going to be an acknowledgement
22 of federal firearms regulations, this one dated
23 November 4, 2014. And a copy to the Hearing Officer,
24 Mr. Frazier, court reporter, and to Ms. Valls.

25 HEARING OFFICER FRONCZAK: Government Exhibit

1 11 is accepted into the record.

2 (Government's Exhibit 11 marked and received in
3 evidence.)

4 BY MR. BOYER:

5 Q. Ms. Valls, do you recognize this document?

6 A. Yes, I do.

7 Q. Similar to what we've see, the previous
8 Government Exhibits 9 and 8 and 7?

9 A. Yes.

10 Q. And is this your signature on the second
11 page?

12 A. Yes, it is.

13 Q. All right, 2014 did this also then accompany
14 an inspection?

15 A. Yes, it did.

16 Q. Okay. And you participated in the inspection
17 of Mr. Frazier's pawn shop?

18 A. Yes, I did.

19 Q. And as before, it looks like you had gone
20 through and acknowledged that you had discussed each of
21 the requirements under the federal firearms regulations
22 with Mr. Frazier?

23 A. Not with Mr. Frazier. This is signed by Bill
24 Hoffman.

25 Q. Okay. Who is Bill Hoffman?

1 A. He is the firearms manager. I'm not sure
2 exactly what his title was, but he was the one who was
3 doing all the firearms transactions at that time. So
4 Mr. Frazier had delegated him to actually participate
5 in the compliance inspection and go over the rules and
6 regulations with me.

7 Q. Okay. And this would be a notice here on the
8 second page then. The signature then, that's of
9 William Hoffman, Bill Hoffman?

10 A. That's correct, yes.

11 Q. Okay. That's 11. I'm handing you one more
12 document in case you didn't have enough already.

13 MR. BOYER: I'm marking this Government
14 Exhibit 12. Government Exhibit 12 is going to be a
15 one-page document titled documents provided to and
16 reviewed with the FFL. I'm handing a copy to the
17 Hearing Officer, Mr. Frazier, court reporter.

18 HEARING OFFICER FRONCZAK: Government Exhibit
19 12 is accepted into the record.

20 **(Government's Exhibit 12 marked and received in**
21 **evidence.)**

22 BY MR. BOYER:

23 Q. I'm handing it to you, Ms. Valls. Ms. Valls,
24 do you recognize this document?

25 A. Yes, I do.

1 Q. What is this?

2 A. This is a listing of all the documents that
3 we -- the hard copy documents that we provide to the
4 FFL or their representative.

5 Q. Okay. And I note here, it looks like -- so
6 these were the documents then that would have been
7 issued to Frazier's Pawn Shop --

8 A. That's correct.

9 Q. -- if I'm reading it right, the licensee's
10 name?

11 A. Yes.

12 Q. And, again, whose signature do we have at the
13 bottom?

14 A. William Hoffman.

15 Q. And he is signing it in his capacity as it
16 says industry member?

17 A. Yes. Mr. Frazier gave him permission to go
18 ahead and do the compliance inspection with us and sign
19 on his behalf.

20 Q. Okay. And if you can, it looks like there's
21 checkmarks in each of these boxes.

22 A. Yes.

23 Q. What are the checkmarks, and what is this
24 indicating?

25 A. We marked off every document that we gave to

1 him that's on the list. The backward checks are mine
2 because I'm left handed.

3 Q. Okay.

4 A. So I completed it.

5 Q. All right. And why do you, I guess, have
6 this form?

7 A. Just so that we can document that not only we
8 went over the acknowledgement, but we also gave them
9 the forms that were related to the acknowledgement of
10 federal firearms regulations.

11 Q. Okay. All right. Ms. Valls, I'm going to
12 fast forward in -- well, let's see here. Before I go
13 there, 2014 inspection that you participated in that.
14 Were there any violations noted in your inspection in
15 2014?

16 A. Yes.

17 Q. Take a look at Government Exhibit 1.

18 A. Yes, there were.

19 Q. Okay. Can you generally speak to the
20 violations?

21 A. Again, just acquisition/disposition
22 violations as well as 4473 violations.

23 Q. Okay. And did ATF take any action following
24 that inspection?

25 A. We sent him a warning letter.

1 Q. And in that warning letter, as done
2 previously, would Mr. Frazier have been put on notice
3 that any potential further violations could lead to
4 revocation of his license?

5 A. Yes.

6 Q. Now, fast forwarding in time, I understand
7 that you received a call on May 3, 2017, from
8 Mr. Hoffman, Bill Hoffman.

9 A. That's correct.

10 Q. All right. And what was that call?

11 A. Mr. Hoffman called because he said that he
12 had taken in a firearm, I'm not sure if was on pawn or
13 they purchased it, but he took in a firearm and he said
14 that he did not think that the firearm was configured
15 correctly, that it had a part that shouldn't be on it.
16 So he said that he had taken the part off of the
17 firearm, but he wanted an agent to come by to look at
18 the firearm to determine if that part was supposed to
19 be on it or not be on it.

20 Q. Um-hum. Did he mention that he had sold the
21 firearm?

22 A. No, he did not.

23 Q. Okay. What did you do after receiving this
24 phone call?

25 A. I referred the call over to Special Agent

1 Martin and let him know what I talked about with
2 Mr. Hoffman and asked him if he could go out and look
3 at the firearm that Mr. Hoffman had.

4 Q. Now, of course, this eventually became a
5 criminal investigation?

6 A. Yes.

7 Q. And you're aware of that?

8 A. Yes.

9 Q. All right. So this was May 3, 2017, that you
10 received this call. There was a search warrant
11 actually that was performed the following year, right,
12 in March --

13 A. That's correct.

14 Q. -- of 2018?

15 A. Yes.

16 Q. All right. Did you have any involvement in
17 that search warrant or reviewing the records that were
18 recovered as a part of that search warrant?

19 A. Yes.

20 Q. Can you tell us about that?

21 A. There was a team of IOIs that were put
22 together, including our supervisor, and we went in with
23 our purpose of doing inventory to see if there was
24 anything, any firearms they had on the premises that
25 were not logged into their books.

1 Q. Okay. Did you find any firearms that were
2 not logged into their books?

3 A. Initially we found 10 firearms that were not
4 logged into their books, and later we found that there
5 were 2 in the book that were not in the correct order.
6 So we didn't find them initially. So we ended up
7 having eight firearms on the premises that were not yet
8 logged into the A&D book when we were there.

9 Q. And just to be clear, I understand per our
10 regulations that a licensee has until the end of the
11 next business day to log those firearms into their A&D
12 book?

13 A. That's correct.

14 Q. Were any of those firearms, you know,
15 received into Mr. Frazier's inventory during that time
16 frame?

17 A. I have no way of knowing that.

18 Q. Okay.

19 A. Yeah.

20 Q. To your knowledge, were any of those firearms
21 received within that short 24-hour period?

22 A. Not to my knowledge.

23 Q. Okay. All right. And then did you also
24 participate in the review of the records that were
25 recovered from Mr. Frazier's shop?

1 A. I did.

2 Q. And there were a number of violations that
3 were noted; is that correct?

4 A. That's correct.

5 MR. BOYER: Mr. Hearing Officer, I'm marking
6 Government Exhibit 13. This is going to be an 87-page
7 document consisting of 29 4473s and 51 number of
8 violations identified therein. I'm handing a copy to
9 the Hearing Officer, Mr. Frazier, the court reporter.

10 HEARING OFFICER FRONCZAK: Government Exhibit
11 Number 13 is accepted into the record.

12 **(Government's Exhibit 13 marked and received in**
13 **evidence.)**

14 BY MR. BOYER:

15 Q. Ms. Valls, I'm handing you a copy of
16 Government Exhibit 13 as well.

17 A. Okay.

18 Q. Now, Ms. Valls, this is some of the records
19 that were recovered during the search warrant from
20 Mr. Frazier's pawn shop. And if I go through, I note
21 on page 3, for example, of Government Exhibit 13, there
22 is a box around number 29.

23 A. That is correct.

24 Q. What is that box?

25 A. That box indicates an error. We go through

1 the 4473s looking for errors. And so when we make
2 copies of them to put them into our databases, we put a
3 box around whatever we found to be wrong. In this
4 case, it's blank.

5 Q. Okay. And so I was going to say, what is the
6 error? It's blank. What should be within this box?

7 A. It should be the written out number of how
8 many firearms were sold in this transaction. So in
9 this case, there was one sold as shown above. So they
10 should have o-n-e written out as one.

11 Q. Okay. And is that a violation of federal
12 firearms regulations?

13 A. That's correct, yes.

14 Q. Okay. Let's move to the next 4473. It looks
15 like this one would be on the second page --

16 A. Yes.

17 Q. -- of that one. I notice on the bottom there
18 are two boxes there.

19 A. Um-hum.

20 Q. Again, does that indicate a violation?

21 A. Yes, because it's blank, and it should have
22 had a date and a signature there.

23 Q. Okay. And by not including -- and the
24 signature would be for the transferee or the buyer's
25 signature --

1 A. That's correct.

2 Q. -- as well as the recertification date?

3 A. Yes.

4 Q. All right. And in not having the transferee
5 or buyer sign, is that a violation of the federal
6 firearms regulations?

7 A. Yes.

8 Q. Okay. I'm not going to go through all 87
9 pages, but let's go -- I would like to go through just
10 one more here. And it looks like on the next -- so
11 this would be the third -- each Form 4473 I should note
12 is three pages each; is that correct?

13 A. It's actually more because it has
14 instructions, but the pages that you write on are three
15 pages, yes.

16 Q. And we've only included the pages that you
17 write on in the Government exhibit?

18 A. That's correct.

19 Q. Okay. So this would be moving then to the
20 third 4473 that we've included here. It looks like
21 we've got the same error for that or same violation?

22 A. Yes, that's correct.

23 Q. Here, where the transferee or buyer did not
24 sign?

25 A. Yes.

1 Q. All right. And you had an opportunity, again
2 you don't need to go through all of them, but you've
3 gone through and identified all the errors and
4 violations contained in these 4473s, correct?

5 A. Yes.

6 Q. And each of those have been indicated with a
7 box?

8 A. Yes.

9 Q. Okay. I would also note that I had said when
10 introducing the exhibit, that there were 29 4473s. The
11 number of violations were 51.

12 A. That's correct.

13 Q. Can you explain why that might be?

14 A. Well, each form may have multiple. So the
15 second one we looked at, it was missing a signature and
16 a date. So that would be two on one form, two errors
17 on one form.

18 Q. Okay. Very good.

19 MR. BOYER: I'll mark this Government Exhibit
20 14. This will be a 111-page document consisting of 37
21 ATF Form 4473s and indicating 64 violations. I'm
22 handing a copy to the Hearing Officer, Mr. Frazier, the
23 court reporter.

24 HEARING OFFICER FRONCZAK: Government Exhibit
25 14 is accepted into the record.

1

2 (Government's Exhibit 14 marked and received in
3 evidence.)

4

BY MR. BOYER:

5

Q. Ms. Valls, I'll continue to add to your
6 stack. Again, as previously indicated, these were
7 records that were recovered from Frazier's Pawn Shop.
8 And, again, it appears to have been compiled the
9 written portions of the Form 4473, correct?

10

A. That's correct.

11

Q. Okay. Let's take a look then at a few of
12 these here then. So on the second page, in this case,
13 there is information written within here, the box is
14 around the certification date, but there is a date in
15 there. Why would that date or why would that be
16 indicated as a violation?

17

A. That date is 1/30/2016, and if you look down
18 at 19.a, which would be the date that the background
19 check was called in, that is 1/20/2017 which also
20 corresponds with number 37 on the next page which is
21 1/30/2017. So they have the incorrect date in the one
22 that is boxed.

23

Q. So the date that should be listed there in
24 block 15 should be the same as that listed in box 19.a
25 as well as in block 37?

1 A. In this case, yes.

2 Q. Okay. That's what -- it should be the same.

3 A. It should be.

4 Q. In this instance, it's not.

5 A. In this case, it's not.

6 Q. And is that a violation of the federal
7 firearms regulations?

8 A. Yes.

9 Q. The next 4473, transaction number it looks
10 like 5433, also we've got a marker around block 15, and
11 is that for the same problem, same violation?

12 A. It has an incorrect date. It actually has
13 the purchaser's birth date.

14 Q. Which was not --

15 A. The date in there.

16 Q. -- April 13, 2017?

17 A. No.

18 Q. All right. The next one, let me see if I --
19 and it looks like the next -- okay. And that continues
20 throughout the remainder of the Government Exhibit 14;
21 is that correct?

22 A. It appears so. On 5471 is not a date issued,
23 but there is an error on it.

24 Q. Yeah.

25 A. You want to do that one?

1 Q. Yeah, maybe let's do that just to clarify the
2 record. There's 12.a on transaction number 5471.
3 You've highlighted that --

4 A. Yes.

5 Q. -- right? Why would that be -- is that the
6 same type of violation as that of listing the wrong
7 date in block 15?

8 A. It's the same citation --

9 Q. Okay.

10 A. -- in the federal firearms regulations, yes.

11 Q. Okay. And so in this case, what should be
12 listed?

13 A. They should have marked their country of
14 citizenship, and that is blank, the purchaser of the
15 firearm.

16 Q. Okay. Now, is the -- and I should note that
17 the violations, so when going through, you know, you're
18 acknowledgement form and your inspections, when
19 speaking to the licensees, would you have informed them
20 that they needed to ensure that the transferee or the
21 buyer completely fill out 4473?

22 A. Yes, and actually as we go through it, and we
23 find errors, we usually take the forms to them and
24 explain to them, you've got a bunch that are blank on
25 this number, or you've got a bunch of incorrect dates.

1 So you need to make sure that you really look at those
2 pieces of information for the next time.

3 Q. And is that what you, in fact, did for
4 inspections that you participated in, in 2012 and 2014
5 with Mr. Frazier?

6 A. Yes, that's standard operating procedure for
7 us.

8 Q. You would have informed them not only of the
9 violation but followed that up with the 4473 that shows
10 them what the error is?

11 A. Yeah, we usually show them the form as we do
12 the inspection, and then when we go over the
13 violations, we'll say, okay, remember we showed you
14 these numbers were not correct, and that's how we would
15 do it, yes.

16 Q. And were some of the violations that you
17 noticed, as you're going through the records that were
18 recovered pursuant to the search warrant, were some of
19 the violations noted repeat violations?

20 A. Yes.

21 Q. Okay. In other words, they had been
22 violations noted on previous inspections, but they
23 continued to have the same problem?

24 A. That's correct.

25 MR. BOYER: The next exhibit, Government

1 Exhibit 15, is going to be a 15-page document
2 consisting of five 4473s with five violations. For
3 clarification, I think I left this off previously for
4 the record, but Government Exhibit 13 would be for
5 violation of 478.21(a). Government Exhibit 14 was a
6 compilation of those 4473s that included violations of
7 478.124(c)(1). Government Exhibit 15 is going to be a
8 compilation of those 4473s that include violations of
9 478.124(c)(3)(i).

10 And, again, I'm marking Government Exhibit
11 15. A copy for the Hearing Officer --
12 **(Government's Exhibit 15 marked for identification.)**

13 THE WITNESS: Well, that's the whole stack
14 you gave me.

15 MR. BOYER: Oh, did I give you the whole
16 thing? Hand a copy to Mr. Frazier and to the court
17 reporter.

18 **(Government's Exhibit 15 received in evidence.)**

19 BY MR. BOYER:

20 Q. And, Ms. Valls, you have a copy as well?

21 A. I do.

22 Q. Okay. Let's take a look at this one. On the
23 second page there, there is a block 18.a, and it's
24 around the information listed under expiration date of
25 identification.

1 A. That's correct.

2 Q. What is the -- why is that highlighted?

3 A. It's an expired driver's license at the time
4 of this transaction. So we have in number 15, a
5 certification date of 4/24/17, and we also have a 19.a,
6 4/24/17. So this license was expired at the time of
7 this transaction.

8 Q. All right. And is that -- in not having or
9 not using an expiration date, is that a violation of
10 478.124(c)(3)(i)?

11 A. That's correct.

12 Q. Okay. It appears on the second 4473, which
13 would be transaction number 5443, we have the same
14 information highlighted in block 18.a.

15 A. That's correct.

16 Q. And can you tell us, is that for the same
17 reason?

18 A. They put a birth year instead of putting the
19 correct year of expiration. So we don't know if this
20 license was expired or not. It was an incorrect date.

21 Q. Certainly the date, if we go by the date
22 alone, the date is well expired?

23 A. Yes, absolutely.

24 Q. Of that license.

25 A. Yes.

1 Q. The next one would be it looks like
2 transaction number 5536. We've got two boxes that are
3 highlighted on that page, and that's going to be in
4 block 18.a as well as in 19.d. Same problem in 18.a
5 with the expiration date?

6 A. Yes.

7 Q. Okay. We don't know if that is the actual
8 date that is listed on the license. Certainly if it
9 was, that's an expired date?

10 A. That's correct, yes.

11 Q. Okay. Indicate that the license is expired.
12 And then 19.d, why is that highlighted?

13 A. Well, that is not a violation of the current
14 ones that we're talking about, 124(c)(3)(i).

15 Q. Okay.

16 A. This is a different violation, but this one
17 is a violation because it is blank. We have in 19.c,
18 marked a delayed response, but we don't have a final
19 response which would be marked in 19.d.

20 Q. Okay. And so when we go through then and we
21 go through the other exhibits, we may see this Form
22 4473, transaction number 5536, under that --

23 A. That's correct.

24 Q. -- specific violation?

25 A. Yes, that's correct.

1 Q. So each 4473, if they have multiple, could
2 potentially contain not only multiple variations of the
3 same code, but different provisions of the regulations?

4 A. Yes.

5 Q. And that's the case here?

6 A. Yes.

7 MR. BOYER: I'm marking Government Exhibit
8 16. That's going to be a 96-page document consisting
9 of 32 Form 4473s with 32 -- indicating 32 violations of
10 478.124(c)(3)(iv) or 4. Government Exhibit 16, I'm
11 handing a copy to the Hearing Officer, Mr. Frazier,
12 court reporter.

13 HEARING OFFICER FRONCZAK: Government Exhibit
14 16 is accepted on the record.
15 **(Government's Exhibit 16 marked and received in**
16 **evidence.)**

17 BY MR. BOYER:

18 Q. Ms. Valls, going through -- start on the
19 first page of Government Exhibit 16, note down here,
20 block 12.a is highlighted.

21 A. Correct.

22 Q. And we've seen that before. This is where
23 the transferee or buyer should be marking country of
24 citizenship?

25 A. That's correct.

1 Q. And by not including that information, would
2 this be considered a violation of 478.124(c)(3)(iv)?

3 A. It would be considered a violation, but I
4 can't tell you if it would be that one because, like I
5 said, we had multiple on the forms.

6 Q. Right, right.

7 A. I believe the (c)(3)(iv) is more under the
8 background check section.

9 Q. Right, which if we turn to the second page
10 then, we've got 19.c is highlighted.

11 A. That's correct.

12 Q. And why is it highlighted?

13 A. That would be the initial response that they
14 receive from NICS when they call in the background
15 check, and it's blank. So we don't know what the
16 answer actually was or if it was a delayed response or
17 what have you.

18 Q. Okay. And what's the point of -- why the
19 requirement to have the licensee fill this information
20 out?

21 A. So we know if the transaction was immediately
22 proceeded, whether it was delayed, if it was denied.
23 The only way we have of knowing now is that we have a
24 number up here for our next transaction number, but we
25 don't know if it was delayed or if it was unapproved.

1 Q. And by not including that information, is
2 that a violation of 478.124(c)(3)(iv)?

3 A. Yes.

4 Q. Looking at the next 4473, which would be
5 transaction number 5696, it appears we have the second
6 page of that 4473, the same problem with 19.c?

7 A. That's correct.

8 Q. And, again, same issue?

9 A. Yes.

10 Q. We don't know whether that was given as a
11 result of the next background check received, delayed,
12 denied?

13 A. That's correct.

14 Q. And finally the next 4473, again not going
15 through all of them, but this would be for transaction
16 5739, 19.c again is missing the information?

17 A. That's correct.

18 Q. Okay. And the remaining 4473s, I know
19 previously and in preparation for this hearing, you had
20 an opportunity to go through and review the
21 information?

22 A. Yes.

23 Q. It does, in fact, contain 32 violations. So
24 each Form 4473 would contain a violation --

25 A. That's correct.

1 Q. -- of this provision?

2 A. Yes.

3 MR. BOYER: I'm marking as Government Exhibit
4 17 a three-page document consisting of one Form 4473
5 indicating one violation of 478.124(c)(4). I'm handing
6 a copy to the Hearing Officer, to Mr. Frazier, the
7 court reporter, and to Ms. Valls.

8 **(Government's Exhibit 17 marked for identification.)**

9 BY MR. BOYER:

10 Q. Ms. Valls, looking at this, if I go to the
11 third page, I note that there is a box, and let's see,
12 under block 27, around the word "pistol."

13 A. That's correct.

14 Q. Why would that be highlighted?

15 A. This was the firearm that was sold, that they
16 are listing out the information for the firearm, and if
17 you look at number 16, they have marked off long gun,
18 and also from my experience, it being a Remington 870,
19 it is a long gun as well as number 38 saying it's a 12-
20 gauge, which would indicate a long gun as well. So
21 they wrote the incorrect type of firearm that they
22 sold.

23 Q. And by not listing the correct firearm sold,
24 that would be a violation of 478.124(c)(4)?

25 A. Yes.

1 Q. And, again, this would have been part of your
2 discussion with the licensee when going over his
3 requirements under the federal firearms regulations?

4 A. Yes.

5 MR. BOYER: If you will, just give me one
6 moment here.

7 HEARING OFFICER FRONCZAK: While you're
8 taking a moment, I'll mention that Government Exhibit
9 17 is accepted into the record.

10 **(Government's Exhibit 17 received in evidence.)**

11 BY MR. BOYER:

12 Q. And I know I haven't done this for all of
13 them, but I would note, so if you refer back to
14 Government Exhibit 1 --

15 A. Um-hum.

16 Q. -- and you look at page 4 of the exhibit,
17 number 3 is listed on top.

18 A. Okay.

19 Q. And you've got in subparagraph 1(g),
20 violation of 27 C.F.R. 478.124(c)(4)?

21 A. Yes.

22 Q. All right. Same provision that we're talking
23 about here?

24 A. That's correct, yes.

25 Q. Okay. And in that instance, so as part of

1 the 2010 inspection, then you had three instances of
2 noncompliance?

3 A. That's correct.

4 Q. And so this would be a repeat violation?

5 A. Yes.

6 Q. Okay. I know I haven't done that with every
7 single one.

8 MR. BOYER: I'm marking as Government Exhibit
9 18 a 12-page document consisting of four Form 4473s,
10 containing four violations of 478.124(c)(5). I'm
11 handing a copy to the Hearing Officer, Mr. Frazier, the
12 court reporter, Ms. Valls.

13 HEARING OFFICER FRONCZAK: Government Exhibit
14 18 is accepted into the record.
15 **(Government's Exhibit 18 marked and received in**
16 **evidence.)**

17 BY MR. BOYER:

18 Q. Ms. Valls, I'm looking at the first Form 4473
19 which would be transaction number 5695. If I look on
20 page three, block 37 appears to have a bold block
21 around the date listed there.

22 A. Yes.

23 Q. Why is that?

24 A. That date is incorrect. If you look at
25 number 15, it is dated 8/23/17, and 19.a is also dated

1 8/23/17. Therefore, the date of the transaction cannot
2 be the day before those dates. That date would be
3 incorrect.

4 Q. So if you go strictly by the dates, this
5 would suggest that the firearm was transferred prior to
6 completion of the -- well, prior to the certification
7 date as well as the date listed in 19.a?

8 A. Correct.

9 Q. And is not having that date accurate, is that
10 a violation of 478.124(c)(5)?

11 A. Yes.

12 Q. Moving to the next Form 4473, it would be
13 transaction 5213. It appears this again, block 37 has
14 the incorrect date, and can you tell us why that is
15 highlighted?

16 A. Again, if you go back to 15, block 15, the
17 date is 1/26/17. The date is also 1/26/17 for 19.a.
18 And the date in block 37 is 1/25/17.

19 Q. All right. And the next 4473, that would be
20 transaction number 5909. It, too, contains the same
21 issue in block 37?

22 A. That's correct.

23 Q. Just give me one moment. Referring then
24 back, Ms. Valls, to Government Exhibit 1, this would be
25 subparagraph 1(h), indicate there the violation of

1 178.124(c)(5) [sic], correct?

2 A. That's correct, yes.

3 Q. In that instance, there was five violations
4 noted?

5 A. Yes.

6 Q. Okay. So, again, this would indicate a
7 repeat violation?

8 A. Yes.

9 Q. And it appears in 2011, down at the bottom of
10 that page, 5(c).

11 A. Yes.

12 Q. Same violation?

13 A. Yes.

14 Q. And to paragraph 9(f), same violation?

15 A. Yes.

16 MR. BOYER: I'm marking Government Exhibit
17 19. It's going to be a nine-page document consisting
18 of three Form 4473s and consisting of two violations of
19 478.126(a). I'm handing a copy to the Hearing Officer,
20 Mr. Frazier, the court reporter, and Ms. Valls.

21 **(Government's Exhibit 19 marked for identification.)**

22 BY MR. BOYER:

23 Q. All right. Ms. Valls, I guess let's go to
24 the third page of Government Exhibit 19. That would be
25 for transaction number 5407.

1 A. Wait a minute. I have 5239 on top. Is this
2 part of -- the bottom part of somebody's. I have two
3 on the bottom. Let me check. 5239 --

4 MR. BOYER: Yeah, it should be. If everybody
5 could do a count.

6 THE WITNESS: Yeah, 5239 should be on the
7 bottom. So somebody's missing a 5239.

8 MR. BOYER: Let me check. Maybe the court
9 reporter. I believe I shortchanged the court reporter.

10 HEARING OFFICER FRONCZAK: While you're doing
11 that, I'm just going to say Government Exhibit 19 is
12 accepted into the record.

13 **(Government's Exhibit 19 received in evidence.)**

14 MR. BOYER: I'm handing a complete copy of
15 Government's Exhibit 19 to the court reporter.

16 BY MR. BOYER:

17 Q. Ms. Valls, looking then -- let's start this
18 over. So I've got transaction number 5407.

19 A. Correct, yes.

20 Q. And if I turn to the third page, I've got
21 here a block around information there at the top of the
22 page. What's the block indicate?

23 A. It indicates the firearms that were sold to
24 this particular individual, and in this case, these are
25 two handguns that were sold on the same day to the same

1 individual.

2 Q. All right. And why would that information be
3 highlighted?

4 A. The licensee is required to report multiple
5 sales of handguns, which means that they have sold more
6 than one handgun to the same individual within a 5-day
7 period. In this case, it was on the same day. And we
8 did not find any corresponding multiple sale form
9 filled out, nor did we have any on our trace history
10 reports.

11 Q. Would that failure to notify then at the
12 multiple sale be a violation of 478.126(a)?

13 A. Yes, that's correct.

14 Q. All right. And then I note that -- so we've
15 got only two violations but we've got two more 4473s?

16 A. That's correct.

17 Q. And can you explain why that is the case?

18 A. On Form 5244, we have a handgun that was sold
19 to a Rodney Ruppenthal on February 10, 2017, and then
20 we also have a firearm, a handgun, that was sold to
21 Rodney Ruppenthal, same address on both forms, on
22 2/8/17. So this indicates that it was more than one
23 handgun sold to the same individual within a 5-day
24 period that a multiple should have been filled out for.

25 Q. And none was actually filed?

1 A. We did not find any in Frazier's files, nor
2 did we find any on our trace history report, no.

3 Q. Referring back then to Government Exhibit 1
4 and looking on the sixth page of that exhibit, number 5
5 listed up top.

6 A. Yes.

7 Q. It appears that this would be -- the same
8 violation was noted in 2014 --

9 A. That's correct.

10 Q. -- during that inspection?

11 A. Yes.

12 Q. So, again, in this we have another repeat
13 violation?

14 A. Yes.

15 MR. BOYER: I'm marking as Exhibit 20 a
16 three-page document consisting of one Form 4473
17 containing three violations of 478.102(a). And a copy
18 for the Hearing Officer, Mr. Frazier, and to the court
19 reporter, Ms. Valls.

20 HEARING OFFICER FRONCZAK: Government Exhibit
21 20 is accepted into the record.

22 **(Government's Exhibit 20 marked and received in**
23 **evidence.)**

24 BY MR. BOYER:

25 Q. And as indicated, there were three violations

1 here. Can you speak to those three violations?

2 A. Well, the first on 12.a is not actually part
3 of 102(a).

4 Q. Oh, okay.

5 A. But they failed to answer that question. It
6 is blank, and that's why that one is a violation, but
7 it is not part of 102(a).

8 Q. Okay.

9 A. So 102(a) is on the second page where we have
10 19.b and 19.c blank, 19.b being the NICS transaction
11 number when the licensee is given when they call in a
12 background check and get a proceed. And then 19.c
13 would be where they would indicate whether they got a
14 delayed response, proceed response, or denied response.
15 In both cases, they are blank, and we have nothing to
16 indicate that a background check was actually called
17 in. And I will also add that on 21 in West Virginia,
18 we do have something that will override the background
19 check. So we will look at number 21 to see if the
20 purchaser provided anything, and in this case, they did
21 not. So we have nothing to show that they were
22 approved to get this firearm.

23 Q. Okay. And when you say 21, that's block 21
24 on --

25 A. Block 21, yes.

1 Q. Okay. That's where it would be annotated
2 that there's an exception to this?

3 A. That's correct.

4 Q. Okay. And by not listing that information,
5 there's no way that again a background check was
6 performed?

7 A. There's no way that we can tell if a
8 background check was performed, no.

9 Q. Okay. And if there's no way to confirm that
10 one was done and that, in fact, one wasn't done, would
11 that be a violation of 478.102(a)?

12 A. Yes, that's correct.

13 Q. So I'd note then that would be a single
14 violation.

15 A. Well, it depends on how you look at it. Two
16 blocks are technically blank.

17 Q. Okay.

18 A. In this case, it's 102(a), which is different
19 than not filling out a form. This is actually a sale
20 that shouldn't have taken place.

21 Q. I see.

22 A. So it is one instance with these two blocks
23 that would be put together.

24 Q. I understand. That's all the questions I
25 have for you, Ms. Valls.

1 A. All righty.

2 HEARING OFFICER FRONCZAK: Mr. Frazier, do
3 you have any questions of Ms. Valls?

4 MR. FRAZIER: A couple.

5 **CROSS-EXAMINATION**

6 BY MR. FRAZIER:

7 Q. Referring back to the gun that was supposed
8 to be a machine gun, do you know when Bill called in?
9 Did you know? Did he call in, do you know if it was
10 the same day he got the gun in or a month later?

11 A. I don't know.

12 Q. Did anybody tell him not to sell the gun?

13 A. Not that I'm aware of.

14 MR. FRAZIER: Okay. That's all my questions.

15 **REDIRECT EXAMINATION**

16 BY MR. BOYER:

17 Q. And just for clarification, again for the
18 record, I would note that that particular transaction
19 turns up what Hoffman related to Ms. Valls and was
20 later passed onto Special Agent Martin, is not a
21 violation that is noted nor included in the notice to
22 deny the new application.

23 A. That's correct.

24 (Witness excused.)

25 HEARING OFFICER FRONCZAK: Thank you. At

1 this time, we're ready to proceed with your
2 presentation of anything you may have.

3 MR. VANN: Actually, before we start --

4 HEARING OFFICER FRONCZAK: Do we need a
5 break?

6 MR. VANN: -- let's take a break. It's
7 12:56. I need 20 minutes from 1 to 1:20 at most for a
8 conference call that I just can't get out of. Can we
9 reconvene at 1:20?

10 HEARING OFFICER FRONCZAK: Is that okay with
11 everybody else?

12 MR. VANN: 1:20. That gives him 20 minutes
13 to look through this stuff anyway because I feel that's
14 appropriate at this moment.

15 HEARING OFFICER FRONCZAK: Absolutely.

16 MR. VANN: So you can look through it because
17 there's quite a volume of material.

18 HEARING OFFICER FRONCZAK: Okay. So at
19 12:26, we will be off the record, and we'll resume in
20 20 minutes. Okay. Thank you.

21 (Off the record at 12:56 p.m.)

22 (On the record at 1:17 p.m.)

23 HEARING OFFICER FRONCZAK: Okay. It is 1:17,
24 and we are back on record.

25 Mr. Frazier, it's your turn to present

1 evidence and anything -- any discussion you want to
2 have regarding why your federal license renewal should
3 not be denied.

4 MR. FRAZIER: The first thing I want to say
5 is that obviously it appears that probably 99 percent
6 of the paperwork is under William Hoffman. You know, I
7 guess I just relied on him, being him working at other
8 gun shops in the past, and he told me he knew what he
9 was doing and he knew all about the paperwork and what
10 needed to be done. Obviously, that wasn't factual.

11 I also brought with me stuff that I have been
12 doing to make sure all the paperwork is right and would
13 get stuff in. I'll give you my Exhibit 1, and it's six
14 pages.

15 You get a copy of that, correct?

16 **(Applicant's Exhibit 1 marked for identification.)**

17 MR. BOYER: And just to be clear,
18 Mr. Frazier, so would this be actions that you've taken
19 since --

20 MR. FRAZIER: Since Bill's been gone. Since
21 he's not working there.

22 MR. BOYER: Since Bill's been gone. Okay.
23 So I understand and appreciate you taking the effort.

24 I would object to the admission of these
25 exhibits simply because this hearing is simply based on

1 the violations and during that I guess that led up to
2 recovery of the documents and the violations that were
3 noted therein. And so in case law, unfortunately, you
4 know, rules against the licensee in terms of remedial
5 action or corrective actions that have been taken
6 since, it's not a matter for consideration for purposes
7 of these hearings.

8 HEARING OFFICER FRONCZAK: I'll take that
9 into consideration, but I am going to allow it to be
10 entered into the record as Exhibit 1 for the FFL.

11 **(Applicant's Exhibit 1 received in evidence.)**

12 MR. FRAZIER: Thank you. Anybody else gets a
13 copy?

14 MR. BOYER: Yeah, yeah, make sure. He's the
15 most important one.

16 HEARING OFFICER FRONCZAK: I just want to be
17 clear, too, for Exhibit 1, this is showing what
18 exactly?

19 MR. FRAZIER: It's a six page -- what it is,
20 the first page is a contract that when we put a gun in,
21 it goes into our computer system. This is a copy of
22 the contract. And then there's checkmarks beside each
23 firearm. That is me personally noting that I logged
24 those into the book.

25 The second page is a page from our computer,

1 but I did not know that it would print out all the guns
2 in and out, and if you look at, it's got checkmarks by
3 each side. On the first column, this is just backing
4 up the contract, that each gun gets logged in, in the
5 book and with a name, which is in response to this that
6 we print out that we can make sure all these are
7 loaded in.

8 And then the next four pages is an actual
9 4473. Then there's two checkmarks at the top, that's
10 one, me, that I've logged it out and the second
11 checkmark is that I've went over everything, making
12 sure everything's in, and also the very last page, we
13 copy a driver's license to keep with all the paperwork
14 now also, and if they have a concealed carry form, we
15 copy that also.

16 And the second exhibit, Number 2, is just
17 our -- everything that we've -- I printed this out back
18 in March of this year, when I knew the hearing was
19 coming up, just kind of showing the percentage of
20 business we do. If you look on page 9, and this is
21 just showing how much percentage of guns that we do,
22 why it's kind of pertinent that I keep my license. If
23 you look at it, just on page 9, if you add it up, the
24 principal involved, all four percentage, is 38.44
25 percent of our business just in buys of firearms, and

1 then the pawns is actually 28 -- it looks like 21.57
2 percent in pawns.

3 **(Applicant's Exhibit 2 marked for identification.)**

4 MR. BOYER: And the pawns, I'm sorry. The
5 pawns are firearms only or --

6 MR. FRAZIER: Yes, just firearms.

7 MR. BOYER: Okay.

8 HEARING OFFICER FRONCZAK: So basically what
9 you're saying then is that 59 percent of your total
10 business conducted is a combination of firearm sales
11 and pawned firearms?

12 MR. FRAZIER: I do not know if that
13 percentage totals, but pawns and that is 59 percent. I
14 would say of all our stuff that we buy in -- this was
15 from January through December of 2018, this log, of all
16 the things that we bought throughout that year, 38.44
17 percent was purchase of handguns or purchase of
18 firearms, and then of the pawns, it's 21.57 percent of
19 the pawns. So I would think that it was separated
20 between buys and pawns, not a total together.

21 HEARING OFFICER FRONCZAK: I accept
22 Licensee's Exhibit 1 into the record.

23 **(Applicant's Exhibit 2 received in evidence.)**

24 HEARING OFFICER FRONCZAK: But I'm also going
25 to let Government counsel look at it.

1 MR. FRAZIER: You can have my copy if you
2 want.

3 MR. BOYER: I make the same objection to
4 Applicant's or Licensee's Exhibit Number 2 on the same
5 basis, just the fact that we're -- it goes outside the
6 scope of the hearing, the reason why we're here today,
7 your evidence. What I may do is just burn a quick
8 copy, you know, when we're done.

9 MR. FRAZIER: You can have mine.

10 MR. BOYER: Yeah.

11 MR. FRAZIER: I don't need it.

12 MR. BOYER: Okay. Yeah. All right.

13 MR. FRAZIER: I don't need it.

14 MR. BOYER: I'll do that.

15 MR. FRAZIER: And that's all I brought.

16 HEARING OFFICER FRONCZAK: Do you have
17 anything else you'd like to say --

18 MR. FRAZIER: Just that --

19 HEARING OFFICER FRONCZAK: -- or state?

20 MR. FRAZIER: Just the same thing that I've
21 iterated before, that as I stated, just going through,
22 skimming through 99 percent of this, the violations
23 were William Hoffman's responsibility. And as far as
24 the transactions he did, selling -- making straw
25 purchases, whatever he has done, is solely on him. I

1 had nothing to do with it. If he said that I did, he's
2 a liar. I never knew he was selling guns. He didn't
3 come to me and say, hey, should we sell this or not
4 because I told him before, like I told any other guys
5 that work for me, if you think it's an issue, just tell
6 me, no, you're not licensed to sell it to them. And
7 I've always told everybody that. That's all I have.

8 MR. VANN: We have a few questions then for
9 Mr. Frazier.

10 (Whereupon,

11 **DAVID M. FRAZIER II**

12 was called as a witness by and on behalf of the
13 Government and was examined and testified as follows:)

14 **DIRECT EXAMINATION**

15 BY MR. VANN:

16 Q. Mr. Frazier, I just want to get a few things
17 straight. Number one, you do understand your
18 obligations as a firearms dealer, correct?

19 A. As far as --

20 Q. Your obligations, what you're required to do,
21 writing the 4733s, keeping A&D book --

22 A. Yes, sir.

23 Q. -- those types of things? You understand
24 that's issues?

25 A. Um-hum.

1 Q. You've been briefed on those --

2 A. Yes, sir.

3 Q. -- and you acknowledge those; is that
4 correct?

5 A. Yes, sir.

6 Q. So you know what your duties are and what
7 your responsibilities are as a licensee to sell guns?

8 A. Yes, and like I said, when I hired Bill, I
9 thought that he was going to handle all that.

10 Q. But you still understand as well, right? I
11 mean you're continuing to do it now.

12 A. Yes.

13 Q. And you've taken steps to ensure that there's
14 going to be compliance with those?

15 A. Yes, sir.

16 Q. And you know what to comply with?

17 A. Yes.

18 Q. Do you have access to resources that would
19 help you with that as well? Do you have a White Book?

20 A. A White Book?

21 Q. Uh-huh.

22 A. No, I never heard of a White Book.

23 Q. The Federal Firearms Manual that they give
24 you.

25 A. Oh, I'm sorry. I mean they gave it to me

1 when I first got my license.

2 Q. So you got it?

3 A. Yes.

4 Q. And you've also had some dealings with IOIs,
5 correct? With the investigators?

6 A. Eileen, yes.

7 Q. With Eileen?

8 A. Um-hum.

9 Q. And you've got her phone number. You can
10 call her if you've got a question.

11 A. Yes, and I have before, yes.

12 Q. And you have called her?

13 A. Um-hum.

14 Q. Okay. So if you had a question about what to
15 do properly, you would call her?

16 A. Yes.

17 Q. Okay. And you do also understand that you
18 have responsibility for your employees?

19 A. Yes.

20 MR. VANN: Okay. No further questions.

21 (Witness excused.)

22 HEARING OFFICER FRONCZAK: Nothing else? Do
23 you have anything else?

24 MR. FRAZIER: No, sir.

25 HEARING OFFICER FRONCZAK: Okay. So I want

1 to thank everyone. I believe we have all the
2 information that I need. I will make my final decision
3 based on the information provided at the hearing today
4 and the record that was presented before me.

5 If the decision is that the Licensee's
6 application will not be denied, you will receive a
7 written notice of that decision. In the event that
8 it's determined that the Licensee's application will be
9 denied, you will receive a final notice of denial of
10 application. You will also receive a copy of my
11 findings and conclusions. If you receive a final
12 notice, you may file a request in federal District
13 Court in the district where you conduct business under
14 the provisions of Section 923(f)(3), Title 18, United
15 States Code, for a de novo hearing. This request must
16 be submitted within 60 days of the receipt of the final
17 notice.

18 At this time, as I just mentioned before, is
19 there anything else anyone would like to add to the
20 record?

21 MR. BOYER: None from the Government.

22 MR. FRAZIER: None from me.

23 HEARING OFFICER FRONCZAK: Okay. If there is
24 nothing further to add, the time is 1:27 p.m. This
25 hearing is officially closed.

Free State Reporting, Inc.
1378 Cape St. Claire Road
Annapolis, MD 21409
(410) 974-0947

1 (Whereupon, at 1:27 p.m., the hearing in the
2 above-entitled matter was closed.)
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CERTIFICATE

This certifies that the attached proceeding before the
BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES

IN THE MATTER OF: DAVID FRAZIER II dba

FRAZIER'S PAWN SHOP

PLACE: Martinsburg, WV

DATE: August 21, 2019

was held according to the record, and that this is the
original, complete, true and accurate transcript which
has been compared to the recording accomplished at the
hearing.

Bradley Weirich

Court Reporter